

- (1) Whether claimant suffered accidental injury on the date or dates alleged.
- (2) Whether claimant's accidental injury arose out of and in the course of his employment with respondent.

- (3) Notice.
- (4) The date of accident.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for the purpose of preliminary hearing, the Appeals Board finds as follows:

After reviewing the evidence the Appeals Board finds the preliminary Order of Administrative Law Judge Clark should be affirmed. Claimant alleges accidental injury on October 17, 1996, with a series of accidents thereafter through his last date of work on November 22, 1996. The Administrative Law Judge found claimant's injury date to be October 17, 1996, which is a finding supported by the evidence in the record. Claimant alleged injury when he lifted a rack on a piece of photography equipment which has been estimated to weigh anywhere from 42 pounds up to 120 pounds. The credible evidence appears to indicate the rack weighed approximately 42 to 45 pounds. Claimant alleges he advised his supervisor immediately of the injury and this testimony is supported by the testimony of Bobbi Helms a temporary employee who was working for respondent at the time of the injury.

The Appeals Board finds, for preliminary hearing purposes, that claimant has satisfied the requirements of K.S.A. 44-520 in providing notice to the respondent within ten days of the accident and has proven that he suffered accidental injury arising out of and in the course of his employment with respondent on October 17, 1996.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark dated January 31, 1997, is affirmed and remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of March 1997.

BOARD MEMBER

c: Alexander B. Mitchell, II, Wichita, KS
Larry Shoaf, Wichita, KS
Christopher McCurdy, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director